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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
KAUAI ISLAND UTILITY COOPERATIVE)
)
For a Declaratory Ruling Regarding)
The Applicability of Hawaii Revised)
Statutes Section 269-27.5 and)
Section 269-27.6 to the Kukui'ula)
Relocation Project.)
_____)

DOCKET NO. 04-0300

DECISION AND ORDER NO. 21546

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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Filed Jan. 14, 2005
At 12 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi.

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KAUAI ISLAND UTILITY COOPERATIVE)
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Section 269-27.6 to the Kukui'ula)
Relocation Project.)

Decision and Order No. 21546

By this Decision and Order, the commission approves the request of KAUAI ISLAND UTILITY COOPERATIVE ("KIUC") to construct portions of the Kukui'ula relocation project ("Project"), described in greater detail herein, above ground and underground.

On October 7, 2004, KIUC filed a Petition for a declaratory ruling that: (1) a public hearing, pursuant to Hawaii Revised Statutes ("HRS") § 269-27.5, was not required for the Project; and (2) a determination whether the proposed relocation of the transmission system should be placed, constructed, erected, or built above or below the surface of the

ground, pursuant to HRS § 269-27.6(a), was not required;¹ in the alternative, if the commission determined that HRS § 269-27.6(a) applies, KIUC requested that the commission "approve the portions of the Project to be constructed overhead as well as those constructed underground[.]"

By Decision and Order No. 21466, filed on November 17, 2004, the commission declared under the facts and circumstances of this case that: (1) a public hearing, pursuant to HRS § 269-27.5, was not required for the Project; and (2) a determination whether the proposed relocation of the transmission system should be placed, constructed, erected, or built above or below the surface of the ground, pursuant to HRS § 269-27.6(a), was required.

In Decision and Order No. 21466, the commission stated that it will treat the Petition as an application for approval under HRS § 269-27.6. However, prior to deciding whether the proposed relocation of the transmission system should be placed, constructed, erected, or built above or below the surface of the ground, the commission also stated that it will allow the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") to file an Amended Statement of Position containing its position on this issue within thirty (30) days from the date of Decision and Order No. 21466.

¹Kauai Island Utility Cooperative's Petition for Declaratory Ruling Exhibits A through E Memorandum in Support of Petition for Declaratory Ruling Attachments 1 through 14 Verification and Certificate of Service, filed on October 7, 2004 ("Petition").

On November 30, 2004, the Consumer Advocate filed its Amended Statement of Position stating that it recommends approval of KIUC's request, pursuant to HRS § 269-27.6(a), provided that the Project is installed in accordance with all information provided in KIUC's Petition and its attached Memorandum in Support.

II.

A.

Background

KIUC is a non-profit cooperative association organized under the laws of the state of Hawaii, and is an operating public utility engaged in the provision of electric energy on the island of Kauai. KIUC currently owns and operates a 69 kilovolt ("kV") overhead transmission line running from its Port Allen power plant to its Koloa Substation. In accordance with a prior obligation entered into by KIUC's predecessor, Kauai Electric, division of Citizens Communications Company and a land developer, KIUC has agreed to relocate portions of this 69 kV transmission line. The relocated line will be approximately four (4) miles in length, with approximately three (3) miles to be constructed overhead and approximately one (1) mile to be constructed underground. KIUC asserts that the entire relocated portion of the transmission line will be located in agriculturally classified and zoned areas. KIUC also asserts that the overhead line's closest point to any existing residentially zoned area will be 500 feet, and its closest

point to any existing residence is estimated to be no less than 595 feet.

KIUC represents that the Project's total cost will be approximately \$4,830,000. Of this total, the Kukui'ula Development Company, Hawaii, LLC ("KDC Hawaii") will pay for \$2,800,000 of the cost as customer contribution. As such, KIUC's share of the relocation project, less this customer contribution, will be approximately \$2,030,000.

KIUC estimates that the cost to underground the three (3) mile segment could be up to five (5) times the cost of installing this portion overhead. It also states that depending on the amount of rock and other impermeable surfaces along the proposed route, the cost could be substantially higher. KIUC also identifies the benefit of reduced cost and time needed to restore service to overhead lines as compared to the same needed for underground restoration.

KIUC represents that KDC Hawaii, who requested the relocation of the transmission line, has agreed to pay \$2,800,000 via customer contribution for the costs of the approximately one (1) mile stretch of the Project to be constructed underground.

B.

Consumer Advocate's Amended Statement of Position

In its Amended Statement of Position, the Consumer Advocate recommends to approve KIUC's proposed overhead/underground placement of the relocated transmission line consisting of three (3) miles of overhead and one (1) mile of

underground line placement provided that the Project is installed in accordance with all information provided in KIUC's Petition and its attached Memorandum in Support. Specifically, in support of its recommendation, the Consumer Advocate states the following: (1) no benefit exists that outweighs the costs of placing the electric transmission system underground; (2) the Consumer Advocate is not aware of any governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground; and (3) there does not appear to be any governmental agency or other parties willing to pay for the additional costs of undergrounding the entire relocated transmission line.

III.

Discussion

Whenever a public utility applies to commission for approval to place, construct, erect, or otherwise build a new forty-six (46) kV or greater high-voltage electric transmission system, HRS § 269-27.6(a) requires the commission to determine whether the proposed system shall be placed overhead or underground. In making this determination, HRS § 269-27.6(a) requires the commission to consider certain factors:

1. Whether a benefit exists that outweighs the costs of placing the electric system underground;
2. Whether there is a governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground, and the governmental agency establishing the policy commits funds for the additional costs of undergrounding;

3. Whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding;
4. The recommendation of the Consumer Advocate; and
5. Any other relevant factors.

Upon review of the record, the commission finds and concludes that KIUC's proposed Project, which consists of the overhead and underground placement of the 69 kV transmission lines, should be approved because: (1) the commission is not aware of a benefit that exists that outweighs the cost of placing the overhead portion of the transmission line underground; (2) the commission is not aware of any governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground; (3) the commission is not aware of any governmental agency or other parties willing to pay for the additional costs of undergrounding the entire transmission line²; and (4) the Consumer Advocate recommends approving KIUC's Project, provided that the Project is installed in accordance with all information provided in KIUC's Petition and its attached Memorandum in Support.

In addition, the commission finds that the closest the planned overhead segment of the line will come to any existing residentially zoned area is 500 feet, and the closest this section will come to any existing residence is 595 feet. Further, the one (1) mile of planned underground line will be that portion that runs

²KDC Hawaii who requested the relocation of the transmission line has agreed to pay \$2,800,000 via customer contribution for the costs of the approximately one (1) mile stretch of the Project to be constructed underground.

the closest and is directly adjacent to the border of the land with existing residences. Furthermore, Exhibits D and E of the Petition indicate that the planned additional vegetation and eucalyptus trees appear to effectively blend with the overhead portions of the relocated 69 kV transmission line into the landscape with minimal visual impact from existing residences.

IV.

Orders

THE COMMISSION ORDERS that the portions of the Kukui'ula relocation project to be constructed overhead as well as those constructed underground, as described in the Application, are approved.

DONE at Honolulu, Hawaii JAN 14 2005.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

Kevin M. Katsura
Kevin M. Katsura
Commission Counsel

04-0300.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21546 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DIVISION OF CONSUMER ADVOCACY
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Karen Higashi

DATED: JAN 14 2005